

**MINUTES OF THE COTTONWOOD HEIGHTS CITY  
PLANNING COMMISSION MEETING**

**Wednesday, April 1, 2015**

**6:00 p.m.**

**Cottonwood Heights City Council Room  
1265 East Fort Union Boulevard, Suite 300  
Cottonwood Heights, Utah**

***ATTENDANCE***

**Members Present:** Chair Gordon Walker, Commissioner Perry Bolyard, Commissioner James Jones, Commissioner Dennis Peters, Commissioner Jeremy Lapin, Alternate Joseph Demma

**Excused:** Vice Chair Paxton Guyman, Commissioner Janet Janke

**Staff Present:** Community and Economic Development Director Brian Berndt, Associate Planner Mike Johnson, City Attorney Shane Topham

**Others Present:** Scout Troop 208, Todd Thueson, John Kennington, Alona Holm, Woody Noxon, Jeff Chatelain, Candace Bastow, Susan Despain, Sue Larsen, Nancy Hardy, Geri Stelling, Maud Breen, Lynn Kraus, Sylvia Bennion, Phil Thompson

**BUSINESS MEETING**

**1.0 WELCOME/ACKNOWLEDGEMENTS**

Chair Walker called the meeting to order at 6:12 p.m. and welcomed those attending.

**2.0 FLAG CEREMONY**

Commissioner Bolyard introduced the Cottonwood Creek LDS Stake Scout Troop. The scouts are working on their Citizenship in the Community Merit Badges.

The Scout Master noted that there are three merit badges dealing with citizenship. He expressed that the scout troop is privileged to be present at the meeting and learn about the planning and zoning process.

The Senior Patrol Leader and his Assistants led the flag ceremony.

Chair Walker thanked the Scout troop for being present and doing their job as good future citizens.

**3.0 CITIZEN COMMENTS**

Chair Walker opened the citizen comment period.

Lynn Kraus commented on the citizen comment portion of public hearings. She stated that at the last few Planning Commission meetings the Chair stated that comments that have already been made should not be repeated. She disagrees with that approach and thinks it is important for a citizen who has gone to the effort to attend a meeting to be able to express their opinion. She believes their name and opinion should be part of the public record. In addition, the Commission should know how many people are for or against

what is being discussed, that cannot be known if citizens do not comment. She stressed the importance of citizens being able to express their opinions. Ms. Kraus commented on the gravel pit site visit and hopes the Commission have ideas that do not include tall buildings. She believes there are other ways to beautify the area than by constructing tall buildings.

Nancy Hardy asked how many people are contacted and how many people the Commission would like to get feedback from on major proposals such as the city-initiated proposed text amendment to Chapter 19 introducing a Planned Development District (PDD). She also asked if a process is in place to ensure that the public is aware of what development is taking place. She believes the City should expand their noticing process to better inform the public of future development.

Chair Walker remarked that the PDD is a significant issue that the public is aware of. He stated that issues are heard every time there is a public hearing and the desire is for the public to have an understanding of the process.

Community and Economic Development Director, Brian Berndt, reported that the ordinance has been available on the City's website for the past four months. An open house was conducted for those who live in the affected areas. The matter has been before the Commission over the last two months and staff has made every effort to make the information available to the public. Mr. Berndt stated that he and other members of the staff have met with people independent of the Commission discussion as well.

Ms. Hardy suggested a wording change be made on the website to make people more aware. She recommends that bullet points also be added to the proposed PDD because it is so lengthy. She suggests that signs be posted at the gravel pit as well as throughout the city informing the public of the proposed PDD. Ms. Hardy wants all to be aware of what is happening. It does not seem to her that important points of the proposed PDD are being heard by the public. The possibility of a town hall type meeting was also discussed. Ms. Hardy suggests dividing the PDD into three separate actions for each tier.

There were no further citizen comments. The citizen comment period was closed.

#### **4.0 PUBLIC HEARINGS**

##### **4.1 (Project #CUP 15-003) Public Comment on a request from Todd Thueson for Conditional Use Approval to Operate an Adult Day Care Facility Located at 1930 East Fort Union Boulevard**

Associate Planner, Mike Johnson, presented the staff report and stated that the proposal is for an adult day care center to be located at 1930 East Fort Union Boulevard. Photos of the site were displayed. There is no proposal to modify the existing site but rather to occupy the building with a different use than what exists currently. It was noted that the proposed use is allowed in the Regional Commercial Zone in which the property is located. Mr. Johnson described the business activities and stated that the business will serve as a day care facility for adults with disabilities. They will perform activities such as reading, arts and crafts, and group projects. Mr. Johnson indicated that the proposed maximum number of occupants is 25 at any given time. The proposed hours of operation are Monday through Friday from 9:00 a.m. to 4:30 p.m.

The applicant, Todd Thueson, reported that they have been in business for 10 years locally and they primarily provide residential housing for people with developmental disabilities. One of their other services is adult day care for people with developmental disabilities. They planned to use the building as a home base. They gather as a group and are able to conduct activities inside the building. They also go into the community. The primary purpose of their business is to assist people with disabilities gain autonomy and become more independent. He noted that the business name is Eaton Alliance of which Mr. Thueson is

a co-owner. They are a for-profit business but they are primarily government contracted with their primary contract being through the State's Department of Human Services.

Chair Walker opened the public hearing.

Maud Breen stated that she is directly across the block wall from the building. She did not object to an adult day care but wants to find out specifically what will be taking place there.

Nancy Hardy believes the proposal seems like a good idea as long as it fits into the long-term plan and the vision for that part of the City.

There were no further public comments. The public hearing was closed.

#### **4.2 (Project #SUB 15-002) Public Comment on a Request from Nick Mason, David Weekley Homes, for Preliminary Approval of a 17-Lot Subdivision Located at 7350 South Wasatch Boulevard**

Mr. Johnson presented the staff report and stated that the request is for preliminary plat approval of the 17-lot subdivision within the Canyon Centre Mixed-Use Master Planned Development. The project is to be located on the southeast portion of the site. He reported that at the January 7, 2015, Planning Commission meeting action was taken on the site plan and conditional use permit as well as site modifications as permitted by the Mixed-Use Ordinance on the site in addition to others within the Canyon Centre development. In the meeting the Commission approved the landscaping plan, the site layout, the location of the homes, the modified setbacks (including a small separation between buildings), and the height variation on a portion of the homes to include a third story. The process before the Commission is a process required by Title 12 of the City's Subdivision Ordinance that specifies that any subdivision of 10 lots or more requires Planning Commission approval.

Mr. Johnson clarified that issues such as lot coverage, density, and landscaping percentages are taken as a percentage of the overall Canyon Centre Master Plan. Because it is a phased Master Plan project, residential density is a component of the entire 11-acre site and not the 17 lots on that portion of the site. Lot coverage is calculated the same way and includes the lot coverage of all of the buildings on the entire site in relation to the whole project. The applicant's preliminary submittal was reviewed by staff and a correction letter was sent out. The proposed preliminary plat was displayed.

Commissioner Peters stated that the landscaping requirements are included in the overall project and one of the other phases is in litigation. He asked how that would affect the Commission's approval since the landscaping requirements are dependent on a phase that may or may not move forward in its present state.

City Attorney, Shane Topham, reported that the Canyon Centre project is not in litigation.

It was noted that the applicant, Nick Mason, was not present.

Chair Walker opened the public hearing.

Bill Currin, a Canyon Racquet Club resident, stated that he currently serves as the Chairman of the Canyon Racquet Club Homeowners' Association. Mr. Currin reported that his primary residence is in Hudson, Ohio where he serves as Mayor of the City. Hudson is a well-run and organized city similar to Cottonwood Heights. Mr. Currin stated that the Canyon Racquet Club homeowners have concerns and there is significant opposition to the proposal since it encumbers the Canyon Racquet Club. He personally feels he will be greatly impacted. The primary concerns of the residents are setbacks, tight clustering, and the third

story. Respectfully, the homeowners' association asked that it be reconsidered. They have been restricted to only two stories and the Canyon Racquet Club has been maintained for many years at great cost. It is their opinion that it is one of the premier vacation condominiums on Wasatch Boulevard. The units are well maintained, sell rapidly when they become available, and they have been good stewards for the City of Cottonwood Heights.

Mr. Currin read a letter submitted by a Canyon Racquet Club resident who wished to be part of the record. The resident, Mr. Rock expressed opposition to the request. He owns units D-2 and D-4 at the Canyon Racquet Club. He is concerned that the exception to allow the third story will block the views of the units and negatively affect their property values. He asks that the request for a third story be reconsidered and that a review of the impact on the Canyon Racquet Club properties be conducted. In December 2014, Mr. Rock contacted City staff about the earlier hearing on the project. He was informed after the hearing that comments had to be submitted prior to the hearing. Mr. Rock felt he was effectively denied an opportunity to comment. He requests that the plan be reopened to comments from neighbors so they can take part in the consideration. He believes that the height, clustering, and setback infringe on the residents of the Canyon Racquet Club.

Sylvia Bennion is of the understanding that the 17 town homes that will be directly behind her have been approved on about one acre of property. As a new resident of Cottonwood Heights, she purchased the property because of the view. Her home is set down low and she asks that the Commission consider requiring the developer to install a fence with a sound barrier immediately so that residents who are directly adjacent won't be impacted as significantly by the noise and dust during construction.

Sue Larsen reported that she has been a Canyon Racquet Club Condominiums resident for 12 years. She addressed the height of the buildings in the proposed development. She observed that the materials submitted by the applicant do not include drawings of the site contours or renderings showing the proposed homes in relation to the adjacent residential properties. As a result, it is difficult to review the impact of the height of the proposed buildings as they relate to the adjacent residences. The Planning Commission approved the third story for Lots 1 through 7, 9, 12, and 15 through 17. She asks that they reconsider approval of three of the sites. Ms. Larsen stated that the third story provides approval for a four-story building as there is a roof top patio on the buildings that brings the overall usable height to four stories. In the Planning Commission approval related to the Canyon Centre Housing Development it is stated that the added height will not have a negative impact on the surrounding area as the taller buildings will be located on the sites furthest from the adjacent residential areas.

Ms. Larsen pointed out that Lots 5, 6, and 7, which were approved for three stories are directly adjacent to the residential areas of the Canyon Racquet Club Condominiums. She reported that three stories could be up to 45 feet above historic grade. This could be a 4 ½ story house or 1 ½ stories higher than the tallest building in their complex and seven times the height of the existing fence between the development and the Canyon Racquet Club Condominiums. The height issue is further exacerbated by the roof top patios that are adjacent to their residential properties. She asked that the Planning Commission rescind its approval of the third story for the three lots and requested that prior to final submission, scaled renderings of the proposed buildings be requested that include the adjacent residential properties. The renderings should show the view of the buildings, the distance from the property line, and the adjacent residential structures and amenities such as patios and decks. If after review, the Planning Commission still wishes to proceed with the three stories, she asked that they consider mitigating policies that roof top patios not be constructed on the three lots or the buildings constructed on the three lots never be rental properties.

Woody Noxon, a Racquet Club Circle resident, stated that he appreciates the fact that in the proposed development plan the four residential units of the 17 behind his home are 24 to 28 feet in height. He also appreciates the setback. In response to a question, it was confirmed that the project was approved for two

stories of parking beneath the building. Mr. Noxon stated that because of the amount of earth has to be removed for the site development, and the construction of the entire complex he recommends that all construction traffic be encouraged to avoid using Racquet Club Drive and instead use Wasatch Boulevard where there are two entrances. This would help to mitigate the noise and congestion that already exists. With regard to construction phasing he requests that it be done west to east to help mitigate construction noise.

Jeff Chatelain, a resident of Racquet Club Circle, he understands that 17 single dwellings have been approved and asked for confirmation. He also questioned with they would be allowed to be used as nightly rentals.

Mr. Johnson stated that there are 17 single-family detached homes proposed. He believes that City codes would not allow the dwelling to be used as short term rentals but would need to verify the code.

Mr. Chatelain believes that the City restricts nightly rentals of single-family homes. He recommends the City define whether the proposed homes are eligible to be rented. He stated that there are plenty of rental properties in the area and it seems that this project is inviting even more. He feels it is noticeably obvious that the common area parking backs on to their circle as well. He requests that it be modified or a second opinion given as to the location of common area parking. Mr. Chatelain asked if consideration has been given to fire trucks as there does not appear to be enough room for them to turn around, which would cause a fire hazard to the adjacent circle. His fear is that there will be an oversupply of rental properties.

Phil Thompson echoed some of Mr. Chatelain's concerns about fire trucks and turnarounds. He identified what he believes to be potential hazards with regard to there not being enough room for emergency vehicles.

Nancy Hardy requests that the Planning Commission not take action on the project tonight since the applicant is not present.

There were no further public comments. The public hearing was closed.

## 5.0 ACTION ITEMS

### 5.1 (Project #CUP 15-003) Action on a Request from Todd Thueson for Conditional Use Approval to Operate an Adult Day Care Facility located at 1930 East Fort Union Boulevard

***Motion: Commissioner Lapin moved to approve Project #CUP-15-003 for a Conditional Use Permit to operate an adult day care in the building located at 1930 East Fort Union Boulevard subject to the following:***

#### ***Conditions:***

- 1. Prior to operation, the applicant shall obtain a business license in compliance with all state and local licensing requirements for day care centers;***
- 2. Prior to future modification of the existing building and site, the applicant shall obtain all necessary permits and approvals, as directed by City staff.***

***Finding that;***

- *The proposed use is in harmony with and meets the intent of the Cottonwood Heights Zoning Ordinance;*
- *Given that no site or building modification is being proposed, the proposed use does not create a negative impact that cannot be mitigated through reasonable conditions.*

*The motion was seconded by Commissioner Jones. Vote on motion: Jeremy Lapin-Aye, Joseph Demma-Aye, Perry Bolyard-Aye, Dennis Peters-Aye, James Jones-Aye, Chair Gordon Walker-Aye. The motion passed unanimously.*

## 5.2 (Project #SUB 15-002) Action on a Request from Nick Mason, David Weekley Homes, for Preliminary Approval of a 17-Lot Subdivision located at 7350 South Wasatch Boulevard

Commissioner Peters asked staff about the scaled rendering submitted at the original public hearing.

Mr. Johnson stated that the site plan shows existing grade measurements and the units that requested a height extension. Also included was an oblique model of the subdivision with a 35-foot overlay which is what is permitted without any variation or approval from the Planning Commission. He is not sure if it showed adjacent properties. He noted that structure heights are measured from the existing grade of properties to the highest point of the structure. That requirement has been followed throughout the process. Mr. Johnson stated that the finished grade will be lower than what exists on the site currently, which is higher than the historic grade.

*Motion: Commissioner Jones moved to table the matter until additional information is provided. The motion was seconded by Commissioner Peters.*

Commissioner Lapin asked if the item was being tabled because of height.

Mr. Berndt commented that height is not a consideration of tonight's approval.

Mr. Topham verified that a conditional use was granted on the project that took the height increases into account. The issue before the Commission is the layout of the subdivision and whether it complies with the City's subdivision ordinance.

Commissioner Lapin asked if the proposed development complies with the height requirements approved with the conditional use.

Mr. Johnson confirmed that the height does comply with the requirements approved with the conditional use. The height will be addressed by the building department during the building permit process and will be required to meet code. He stated that what is being considered tonight is the preliminary plat.

*Vote on motion: Jeremy Lapin-Nay, Joseph Demma-Nay, Perry Bolyard-Nay, Dennis Peters-Aye, James Jones-Aye, Chair Gordon Walker-Aye. The motion failed 3-to-3.*

Commissioner Lapin asked if the proposed development has been reviewed by the fire department and meets code requirements.

Mr. Johnson confirmed that as far as the road layout and the width of the road in the proposed development that the minimum fire code standards have been met.

Commissioner Lapin asked if there is a requirement that the applicant be present.

Mr. Johnson stated that there is no such requirement.

Commissioner Peters asked if the Commission overlooked a material fact in the previous hearings if it would be grounds to defer a decision.

Mr. Topham stated that he has never seen that come up in a case. He indicated that there is a 30-day appeal right after a decision is made. No appeal was made during that time period and there is now no recourse to the decision made in January.

***Commissioner Demma moved to approve Project #SUB 15-002, an application by David Weekley Homes for preliminary approval of a 17-lot subdivision located on property at 7350 South Wasatch Boulevard subject to the following:***

***Conditions:***

- 1. The applicant shall address all correction items as required by City staff, as found on the document "First Zoning Review Amended 3.23.15", and "First Engineering Review 3.24.15". These documents can be found on file with the Cottonwood Heights Community and Economic Development Department;***
- 2. Prior to final approval, the applicant shall submit lot coverage and landscaping calculations, both as a square footage specific to the proposed development, and as a percentage of the overall Canyon Centre Development property;***
- 3. Prior to final approval, the applicant shall submit density calculations, in units per acre of the entire Canyon Centre Development property;***
- 4. Prior to final plat approval, the applicant shall submit evidence of recordation of the Wasatch Gates Subdivision;***
- 5. Prior to final approval, the applicant shall submit a copy of the codes, covenants, and restrictions for the proposed subdivision. Included in this document should be a maintenance plan for the private driveway and any commonly owned areas, architectural review guidelines, and other pertinent information regarding the ongoing operation and maintenance of the subdivision;***
- 6. All conditions of approval pertinent to the 17-lot subdivision from CUP-15-009 (Canyon Centre Phase II Conditional Use and Site Plan Approval) granted by the Planning Commission on January 7, 2015, shall be addressed prior to final subdivision approval;***
- 7. Prior to final approval, the developer shall submit a bond in an amount approved by the City Engineer for any required public improvements;***
- 8. The applicant shall obtain all necessary permits pertaining to site work, grading, demolition, and construction.***

***Findings for approval:***

- The proposed subdivision is in conformance with the mixed-use zoning requirements (19.36), and the requirements of Title 12 (Subdivisions);***

- *The proposed subdivision has been reviewed by all pertinent City departments, and has received a favorable recommendation of preliminary plat approval;*
- *The proposed subdivision meets the applicable provisions of Title 14 (Highways, Sidewalks, and Public Places);*
- *Proper notice was given in accordance with local and state requirements.*

*Commissioner Lapin seconded the motion. Vote on motion: Jeremy Lapin-Aye, Joseph Demma-Aye, Perry Bolyard-Nay, Dennis Peters-Nay, James Jones-Nay, Chair Gordon Walker-Nay. The motion failed 4-to-2.*

Chair Walker explained that the motion failed so the matter would be put on a future agenda when a full quorum is present.

Mr. Topham recommended the Commission consider a motion to continue the matter and have it placed on a future agenda.

*Commissioner Peters moved to defer the matter to the next Planning Commission meeting for a decision. The motion was seconded by Commissioner Demma. Vote on motion: Jeremy Lapin-Nay, Joseph Demma-Aye, Perry Bolyard-Aye, Dennis Peters-Aye, James Jones-Aye, Chair Gordon Walker-Aye. The motion passed 5-to-1.*

### **5.3 (Project #ZTA-001) Action on a City-Initiated Proposed Text Amendment to Chapter 19 of the Cottonwood Heights Municipal Code Introducing a New Zoning Classification, Planned Development Districts (PDD)**

Commissioner Lapin asked for clarification of the detailed plan on page three of the proposed text amendment.

Mr. Berndt explained that it specifically shows the architectural details and details of the specific site plan.

Commissioner Lapin asked for the reasoning behind not allowing it on areas of 20 acres or greater.

Mr. Berndt stated that if there is a project planned on property with no immediate plan for development, it can be designated as a future phase and approved under the original PDD with specific direction about what could be done on the property. It could be left undeveloped and once the upper level of the gravel pit in this case, is established, it will determine the angle. Mr. Berndt stated that the intent is to give property owners flexibility in how they can use their properties. The majority of the property in the Code has been developed in that it will be considered for future redevelopment.

Landscaping issues were discussed. In response to a question raised, Mr. Berndt stated that one of the options that could be discussed should include allowing property owners to plant no trees on the property and do all ground cover, potted plants, and shrubs. Staff has no predetermined expectation of how many trees there will be and thought it would be part of the plan.

In terms of sidewalks, Mr. Berndt reported that Wasatch Boulevard will have a five-foot sidewalk because it is a state road governed by UDOT. The City can, however, add to an area behind the sidewalk and include walking paths there. He stressed that there is an emphasis on pedestrian circulation. Staff's expectation is that internal to the site would be larger sidewalks. With regard to width requirements, he stated that the discrepancies in the document should be modified so that they are all the same at six feet.



Commissioner Lapin expressed that he would like to maintain flexibility and include more specific requirements for roads. He recommends there be sidewalks on both sides of all public and private roads.

Mr. Berndt stated that this is staff's attempt to ensure that taller buildings and the greatest impact is further into the site. Height issues were discussed.

Commissioner Lapin suggests that the vertical or horizontal planes be reversed.

Commissioner Bolyard recommended that the greatest height be the furthest from Wasatch Boulevard. The tallest building that he is aware of in Salt Lake City is the LDS Church Office Building. It is 28 stories and 420 feet tall. If the LDS Church Office Building and surrounding taller buildings are in the 100% district of Salt Lake City he thinks it would be difficult to imagine that buildings of that height would be built in Cottonwood Heights. It would be market driven and he does not want to ignore what the market might be. He did, however, think it would be good to know what developers are hoping for in this area before settling on what those numbers ought to be. Chair Walker commented that reversing the coordinates drives the greatest height further south and east, which is not necessarily where they are desired. He thinks that to reverse that would enforce a much greater height than anticipated. He recommends the exact dimensions first be determined.

Mr. Berndt suggested that requirement be removed and an expectation made for how the site is designed. Staff agreed to provide the dimensions. Building placement and height issues were discussed. Mr. Berndt was asked to prepare language basing the height based on the distance from Wasatch Boulevard.

Commissioner Demma was excused from the remainder of the meeting at 7:34 p.m.

Mr. Berndt stated that if the Commission feels like the project works because of how it is designed and if it is found to meet the intent of a mixed-use development that offers certain things in the submittal, the Commission can modify the conditions. The possibility of another layout was also discussed where greater heights would be allowed in areas with a lesser impact. Mr. Berndt offered to present the Commission with two options the following week. He recommends the matter be tabled to a future meeting. The possibility of imposing a maximum building height in the Tier 1 Zone was discussed. Mr. Berndt agreed to propose a height standard that could specify heights based on the distance from Wasatch Boulevard.

Commissioner Bolyard commented that if there are to be taller buildings in the City, the gravel pit is the best location for them. He suggests they look at what the market wants.

***Motion: Commissioner Bolyard moved to table action until the Commission has sufficient information to make a decision. The motion was seconded by Commissioner Jones and passed unanimously on a voice vote. Commissioner Demma was not present for the vote.***

#### **5.4 Approval of Minutes of March 4, 2015**

***Motion: Commissioner Jones moved to approve the minutes of March 4, 2015. The motion was seconded by Commissioner Lapin and passed unanimously on a voice vote. Commissioner Demma was not present for the vote.***

#### **6.0 ADJOURNMENT**

***Motion: Commissioner Lapin moved to adjourn. The motion was seconded by Commissioner Bolyard and passed unanimously on a voice vote. Commissioner Demma was not present for the vote. The Planning Commission meeting adjourned at 7:39 p.m.***

Minutes approved: 04/15/2015